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And TRULY NOLEN OF AMERICA, INC.*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

ALEKSANDRE GOGYAN, Individually;

Plaintiff,

vs.

JOHN FINNEGAN, TRULY NOLEN OF
AMERICA, INC.; and DOES 1 through
100: and ROE CORPORATIONS 101
through 200.

Defendants.

CASE NO.

PETITION FOR REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441 (DIVERSITY)

PETITION FOR REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (DIVERSITY)

Pursuant to 28 U.S.C. § 1441(b), Defendant JOHN FINNEGAN and Defendant TRULY NOLEN OF AMERICA, INC. (hereinafter referred to as "Defendants"), by and through its counsel of record, the law firm of LEWIS BRISBOIS BISGAARD & SMITH LLP, files this Petition for Removal of Clark County District Court Case No. A-17-761708-C styled *Aleksandre Gogyan, Plaintiff vs. John Finnegan, Truly Nolen of America, Inc. Defendant(s)* and states as follows:

1. On May 2, 2022, Plaintiff ALEKSANDRE GOGYAN ("Plaintiff") commenced an action in the Eighth Judicial District Court, Clark County, State of Nevada, entitled *Aleksandre Gogyan, Plaintiff vs. John Finnegan, Truly Nolen of America, Inc. Defendant(s)*

1 Case No. A-22-850890-C. Copies of the Complaint and Summons are attached and
2 marked respectively as *Exhibits "A"* and *"B,"* constituting all of the pleadings served on
3 Defendants. Defendant TRULY NOLEN OF AMERICA, INC. was served on May 4, 2022.
4 There are no other defendants in this matter.

5 2. This action is a civil action of which this Honorable Court has original
6 jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by
7 Defendants pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action
8 between citizens of different states and the matter in controversy exceeds the sum of
9 \$75,000, exclusive of interest and costs.

10 3. Plaintiff ALEKSANDRE GOGYAN is a citizen of the state of Nevada;
11 Defendant TRULY NOLEN OF AMERICA, INC. is a corporation organized under the laws
12 of Arizona with its principal place of business including its corporate headquarters located
13 in Arizona. Defendant JOHN FINNEGAN is a citizen of the State of Florida. Thus, Plaintiff
14 and Defendants are citizens of different states and diversity jurisdiction is appropriate.

15 4. Venue is appropriate in the unofficial Southern District of the District of
16 Nevada pursuant to 28 U.S.C. § 1441 (a) and LR IA 1-6.

17 5. The matter in controversy exceeds the sum of \$75,000. Plaintiff asserted in
18 his Complaint that he is entitled to general damages in excess of \$15,000; special
19 damages in excess of \$15,000; property damages, rental car fees, towing fees, attorneys'
20 fees incurred by Plaintiff in bringing his claims; and for interest and costs incurred by the
21 Plaintiff in bringing his claims. Upon information and belief, Plaintiff is claiming severe
22 injuries as a result of the motor vehicle accident, including pain to his neck, back, shoulder,
23 head, and disorientation. Plaintiff alleges he has been rendered sick and lame as a result
24 of the accident in his complaint. Consequently, given the extent of Plaintiff's claimed
25 damages, Plaintiff is likely to ask a jury for more than the \$75,000 jurisdictional threshold.

26 6. A defendant's duty is not to prove by a preponderance of the evidence that
27 the plaintiffs are likely to recover an amount in excess of the threshold. Rather, the
28 jurisdictional minimum in diversity cases is determined by the amount at stake to either

1 party. *Hamrick v. REO Props. Corp.*, 2010 U.S. Dist. LEXIS 85073 (Nev. 2010). In other
2 words, the amount in controversy is satisfied when the plaintiff's potential gain exceeds the
3 jurisdictional limit. *Id.* The pertinent question the Court is to ask is whether or not plaintiff is
4 likely to ask a jury for an amount above \$75,000. *Canonico v. Seals*, 2013 U.S. Dist. LEXIS
5 60047 (Nev. 2013). As such, the appropriate figure to use in determining whether
6 Defendants have presented adequate evidence to establish the amount in controversy is
7 not the probable amount that Plaintiff will recover, but rather the total potential value of
8 Plaintiff's claims, considering all of the allegations and all the asserted damages. If
9 Defendants can show by a preponderance of evidence that: (1) Plaintiff is likely to ask from
10 the jury an amount over the jurisdictional threshold, or (2) were a jury to award Plaintiff full
11 recovery that award would be over the jurisdiction threshold, then jurisdiction with the
12 Federal Court should remain. As such, it is apparent from the alleged damages that the
13 amount in controversy is in excess of \$75,000, exclusive of interest and costs, and that
14 Defendants have satisfied the jurisdictional threshold.

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7. Based on the foregoing, Defendants respectfully submits that (a) there is diversity of citizenship between Plaintiff and Defendants, and (b) the amount in controversy exceeds \$75,000. This action is, therefore, properly removed to the United States District Court for the unofficial Southern District of Nevada.

DATED this 23rd day of May, 2022.

LEWIS BRISBOIS BISGAARD & SMITH LLP

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JOHN FINNEGAN*

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2022, a true and correct copy of PETITION FOR REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (DIVERSITY) was served by electronically filing with the Clerk of the Court using the Court's Electronic Service system and serving all parties with an email-address on record, who have agreed to receive Electronic Service in this action.

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